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BEFORE THE ARIZONA CORPORATION COMMISSION

SUSAN BITTER SMITH  
Chairman

BOB STUMP  
Commissioner

BOB BURNS  
Commissioner

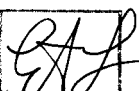
DOUG LITTLE  
Commissioner

TOM FORESE  
Commissioner

Arizona Corporation Commission

DOCKETED

APR 23 2015

DOCKETED BY 

IN THE MATTER OF THE APPLICATION  
OF CBeyond COMMUNICATIONS, LLC  
FOR APPROVAL OF A RESCISSION OF  
THE BOND/LETTER OF CREDIT  
REQUIREMENT CONTAINED IN  
DECISION NO. 70644.

DOCKET NO. T-20497A-15-0047

DECISION NO. 75028

ORDER

Open Meeting  
April 14 and 15, 2015  
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On February 23, 2015, Cbeyond Communications, LLC ("Cbeyond", "Applicant" or "Company") submitted an Application requesting rescission of the bond or letter of credit requirement contained in Decision No. 70644.

**Background**

2. In Decision No. 70644, dated December 17, 2008, the Arizona Corporation Commission ("Commission") ordered Cbeyond to procure a performance bond or irrevocable sight draft letter of credit ("ISDLOC") in the amount of \$110,000, provide the original to the Commission's Business Office and file copies with Docket Control. On January 29, 2009, Cbeyond docketed a copy of the \$110,000 ISDLOC it had obtained and delivered the original to the Business Office. This original ISDLOC expired on January 1, 2010 but a subsequent and original ISDLOC in the amount of \$110,000 was delivered to the Business Office as a replacement. This latter ISDLOC has not yet expired.

3. Cbeyond indicated in its Application that as the result of a recent change of banks, the new bank issued another ISDLOC in the amount of \$110,000. This ISDLOC was delivered to the Business Office in January of 2015 putting Cbeyond in the position of having two (2) current ISDLOCs on file with the Commission.

4. Staff has confirmed the Business Office is in possession of all three (3) original \$110,000 ISDLOCs mentioned here. Cbeyond is requesting the return of these three (3) original ISDLOCs to the contact listed below.

#### **Compliance**

5. According to the Commission Corporations Division, Cbeyond is in good standing. The Compliance Section of the Commission Utilities Division reports that Cbeyond is currently in compliance with the Compliance Database. The Consumer Services Section of the Utilities Division reports there have been no complaints or opinions about Cbeyond during the 2012-2015 time period and the Company is current with its Utilities Annual Report filings.

#### **Staff Recommendations**

6. The Commission has, in appropriate circumstances, relieved telecommunications providers of the obligation to maintain a performance bond or ISDLOC. Staff recommends Cbeyond be relieved of the \$110,000 performance bond or ISDLOC obligation contained in Decision No. 70644.

7. The Applicant states that in order to release the letters of credit, it is sufficient for the Commission to include in an ordering paragraph language authorizing the Applicant to cancel, rescind, discontinue and be released from the performance bond or ISDLOC required by Decision No. 70644 and authorizing the cancellation of the letters of credit.

8. Cbeyond indicates in the Application the three (3) letters of credit should be released and returned to the following name and address:

Becky Thompson  
Directory of Treasury  
Birch Communications  
320 Interstate North Parkway, SE  
Atlanta, Georgia 30339

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CONCLUSIONS OF LAW

1  
2 1. Cbeyond Communications, LLC is a public service corporation within the meaning of  
3 Article XV of the Arizona Constitution.

4 2. The Commission has jurisdiction over Cbeyond Communications, LLC and the  
5 subject matter in this filing.

6 3. The Commission, having reviewed the filing and Staff's Memorandum dated March  
7 31, 2015, concludes that it is in the public interest to approve the Cbeyond Communications, LLC  
8 Application as proposed and discussed herein.

ORDER

9  
10 IT IS THEREFORE ORDERED that the Application of Cbeyond Communications, LLC to  
11 terminate the performance bond or irrevocable sight draft letter of credit requirement contained in  
12 Decision No. 70644 be and hereby is approved.

13 IT IS FURTHER ORDERED that Cbeyond Communications, LLC may cancel, rescind,  
14 discontinue and be released from any performance bond, irrevocable sight draft letter of credit or  
15 other instrument obtained in compliance with the performance bond or irrevocable sight draft letter  
16 of credit requirements set by Decision No. 70644.

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IT IS FURTHER ORDERED that any letters of credit on file with the Commission on behalf of Cbeyond Communications, LLC be returned to the following name and address provided by the Applicant:

Becky Thompson  
Directory of Treasury  
Birch Communications  
320 Interstate North Parkway, SE  
Atlanta, Georgia 30339

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

**BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

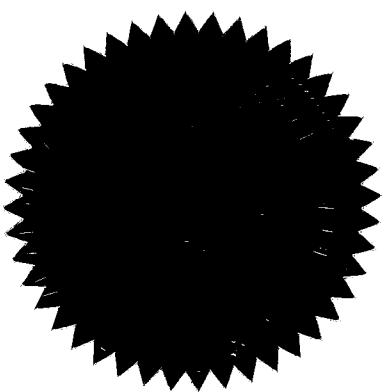
  
CHAIRMAN

  
COMMISSIONER

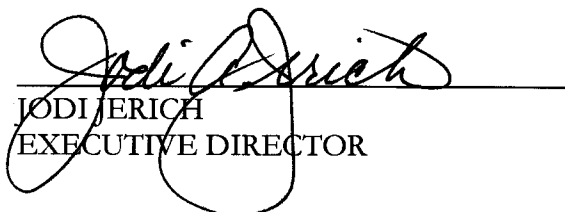
  
COMMISSIONER

  
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COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto, set my hand and caused the official seal of this Commission to be affixed at the Capitol, in the City of Phoenix, this 23rd day of April, 2015.

  
JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT: \_\_\_\_\_

DISSENT: \_\_\_\_\_

SMO:MAC:red\CHH

1 SERVICE LIST FOR: Cbeyond Communications, LLC  
2 DOCKET NO. T-20497A-15-0047

3 Ms. Becky Thompson  
4 Director of Treasury  
5 Birch Communications  
6 320 Interstate North Parkway, SE  
Suite 300  
Atlanta, Georgia 30339

7 Ms. Joan S. Burke  
8 Law Office of Joan S. Burke, P.C.  
9 1650 North First Avenue  
Phoenix, Arizona 85003

10 Mr. Steven M. Olea  
11 Director, Utilities Division  
12 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

13 Ms. Janice M. Alward  
14 Chief Counsel, Legal Division  
15 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

16  
17 Ms. Lyn Farmer  
18 Chief Administrative Law Judge  
19 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

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